

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JORDAN JAMES JOHNSON,)	
)	20-cv-0775
Petitioner,)	
)	ELECTRONICALLY FILED
v.)	
)	
WARDEN, WESTMORELAND COUNTY)	
PRISON; and DISTRICT ATTORNEY OF)	
WESTMORELAND COUNTY,)	
)	
Respondents.)	

**MEMORANDUM ORDER ADOPTING MAGISTRATE JUDGE’S
REPORT AND RECOMMENDATION ([DOC. NO. 12](#))**

Pending before the Court are the Petition for Writ of Habeas Corpus filed pursuant to [28 U.S.C. § 2241](#) by Jordan James Johnson, a state pretrial detainee being detained at the Westmoreland County Prison, ([Doc. No. 4](#)) and the Report and Recommendation (“R&R”) of the magistrate judge, which recommended that the petition be dismissed without prejudice for failure to exhaust state remedies. ([Doc. No. 12](#)). Petitioner was served with the R&R at his listed address of record and advised that written objections were due by November 20, 2020. To date, Petitioner has not filed any objections nor has he sought an extension of time in which to do so.¹

¹ If a party does not file timely objections to a magistrate judge’s report and recommendation, the party may lose its right to *de novo* review by the district court, although the court must still give “reasoned consideration” to the magistrate judge’s report before adopting it. [Henderson v. Carlson](#), 812 F.2d 874, 878–79 (3d Cir. 1987). The district court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed. R. Civ. P. 72\(b\)](#), advisory committee notes.

As noted in the R&R, Petitioner has failed to exhaust state remedies because he has not presented his federal constitutional claims to each level of the state courts empowered to hear those claims. As such, the claims presented in his habeas petition are unexhausted, but not procedurally defaulted as Petitioner's criminal proceedings remain pending in state court. The Court has reviewed the matter and concludes that the R&R correctly analyzes the issues and makes a sound recommendation.

Accordingly, after *de novo* review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 24th day of November, 2020:

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus filed by JORDAN JAMES JOHNSON is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state remedies and that, to the extent one is needed, a Certificate of Appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation ([Doc. No. 12](#)) dated November 3, 2020, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

SO ORDERED this 24th day of November, 2020.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: **JORDAN JAMES JOHNSON**

485-2020

Westmoreland County Prison

3000 S. Grande Blvd.

Greensburg, PA 15601

(via U.S. First Class Mail)

Jacquelyn A. Knupp

Westmoreland County District Attorney's Office

(via ECF electronic notification)